

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

19-CV-1709 (JLS) (LGF)

JANICE CARROLL,

Defendant.¹

DECISION AND ORDER

Plaintiff United States of America commenced this real property foreclosure action on December 26, 2019. Dkt. 1. Plaintiff asked the Clerk of Court for entry of default against Defendant Janice Carroll, which the Clerk entered on June 21, 2021. Dkt. 13; Dkt. 14. On February 16, 2022, Plaintiff moved for default judgment against Defendant Carroll.² Dkt. 18. The Court referred then the case to United States Magistrate Judge Leslie G. Foschio under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C) to hear and determine, and to report and recommend on, all matters in this case. Dkt. 22.

¹ Judge Foschio granted Plaintiff's motion to amend the caption, so that Defendant Janice Carroll is the sole defendant in this action. *See* Dkt. 22, at 5–6. The Court will direct the Clerk of Court to update the docket to reflect this new caption.

² Plaintiff also moved to amend the caption, as noted above. Because Judge Foschio granted that motion and no party objected, the Court does not address it substantively here.



On September 13, 2022, Judge Foschio issued a combined Report and Recommendation (R&R) and Decision and Order—as relevant here—recommending that this Court deny Plaintiff’s request for default judgment and related attorney’s fees, without prejudice and with leave to renew. *See* Dkt. 12.

Neither party objected to the R&R,³ and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge Foschio’s R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R.

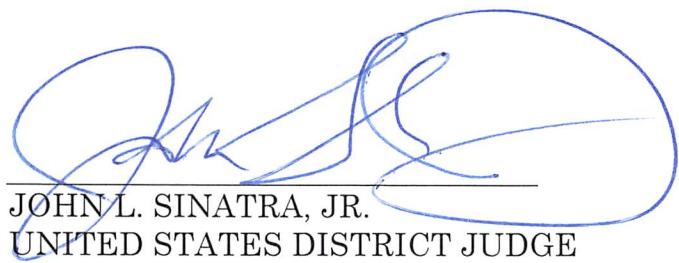
For the reasons stated above and in the R&R, the Court DENIES Plaintiff’s motion for default judgment and attorney’s fees (Dkt. 18), without prejudice and with leave to renew. The Court asks the Clerk of Court to update the docket to reflect the amended caption that appears on this decision and order. And the Court

³ Plaintiff filed another motion for default judgment against Defendant on September 16, 2022. *See* Dkt. 23. Judge Foschio set a briefing schedule on that motion, which has not yet expired. *See* Dkt. 24.

refers the case back to Judge Foschio for further proceedings, consistent with the referral order at Dkt. 19.

SO ORDERED.

Dated: October 18, 2022
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE